SHRI G.S. SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY
WRIT PETITION NO. 14540 OF 2001

BETWEEN

Bonu Satyavathi & others

..... Petitioners

And

The Executive Officer,
Sri Varaha Lakshmi Narasimha Swami Vari
Devasthanam, Simhachalam, Visakhapatnam & others.

.....Respondents

Counsel for the petitioners : Shri M. Vidya Sagar

Counsel for respondent No.1 : Shri M. Adinarayana Raju

Counsel for respondent Nos.2 and 3 : Government Pleader for Revenue.

Date: 21.09.2006

:: O R D E R ::

Per G.S. SINGHVI, CJ

This is a petition for grant of a declaration that the action of Sub-Registrar, Gopalapatnam, Visakhapatnam (respondent No.2) in not receiving, registering and releasing the sale deeds in respect of lands belonging to the petitioners is illegal, arbitrary and violative of Article 14 of the Constitution and the Registration Act, 1908 (for short 'the Act'). The other prayer made in the writ petition is for issue of a direction to respondent No.2 to register and release the sale deeds in respect of land belonging to the petitioners.

In paragraph 2 of the affidavit filed by petitioner No.1, it has been averred that she is the owner of the land measuring 261 square yards comprised in Survey No.133/2 of Vepagunta Village, petitioner No.2 is the owner of land measuring 245-55 square yards comprised in Survey No.151/1C and petitioner No.3 is the owner of 139 square yards of land comprised in Survey No.154. However, the aforesaid statement of petitioner No.1 is contradicted by her own assertion that in the year 2000-2001, the petitioners had applied to the Land Regularisation Committee constituted by the State Government vide G.O.Ms.No.578 Revenue (Endowments–IV) Department dated 19.08.2000 for regularisation of encroachments of the lands belonging to Simhachalam Devasthanam in five villages namely Adivivaram, Vepagunta, Venkatapuram, Purushothapuram and Cheemalapalli, and also by the fact that the Committee did order regularisation of the encroachments made by the petitioners.

The further case of the petitioners is that due to family needs they are interested in disposing of the property in their possession. According to them, they presented sale deeds before respondent No.2, but the latter declined to register the documents on the ground that there is prohibition on registration of the sale deeds in respect of the

land belonging to Simhachalam Devasthanam.

The petitioners have questioned the refusal of respondent No.2 to register the sale deeds by contending that after regularisation of encroachments by the Land Regularisation Committee constituted by the State Government, there can be no impediment in the registration of sale deeds.

In the counter filed by respondent No.2, reference has been made to Andhra Pradesh Registration (Prohibition of Registration of Certain Documents opposed to Public Policy) Rules, 1999 (for short 'the 1999 Rules') framed by the State Government for giving effect to the provisions of Section 22-A of the Act, which was inserted by Andhra Pradesh Amendment Act No.4 of 1999, and it has been averred that in view of the prohibition contained against the registration of documents, he had no option but to decline the prayer of the petitioners for registration of the sale deeds. In paragraph 2 of the counter-affidavit, it has been averred that petitioner No.2 had submitted sale deed dated 05.05.2001 and petitioner No.3 presented document on 17.05.2001.

In a separate affidavit filed by respondent No.1, it has been averred that the petitioners had unauthorisedly encroached land belonging to the Devasthanam, but in furtherance of the policy decision taken by the State Government, which was circulated vide G.O.Ms.No.578 dated 19.08.2000, their unauthorized encroachments were regularised subject to payment of the specified price.

We have heard learned counsel for the parties and perused the record.

Although the pleadings of the petitioners show that they have not approached the Court with clean hands inasmuch as they have deliberately omitted to mention the date on which the sale deeds were presented for registration, from the averments contained in the counter-affidavit of respondent No.2, it is clearly established that at least two of the petitioners (petitioner Nos. 2 and 3) had presented documents for registration even before the issue of Land Regularisation Certificate by the competent authority. This means the petitioners have deliberately omitted to mention the dates of presentation of sale deeds before respondent No.2. Notwithstanding this, we are not inclined to dismiss the writ petition because by an order dated 07.12.2005 passed in Writ Petition No.14099 of 2003 - K.Ramadevi v. State of Andhra Pradesh, and batch, this Court has already struck down
Section 22-A of the Registration Act and Rule 2(b) of the 1999 Rules and issued a direction to the registering authority to take further action in accordance with law and in a large number of similar cases, relief has been given by this Court to the writ petitioner.

There is another reason for our disinclination to non-suit the petitioners. By an order dated 18.07.2001, the learned Single Judge directed registration and release of the documents presented by the petitioners and in compliance of that order, respondent No.2 is said to have already registered and released the documents in favour of the petitioners.

In view of the above, the writ petition is disposed of with the direction that registration of the documents presented by the petitioners will be deemed to have been regularised in view of order dated 07.12.2005 passed by this Court in Writ petitonNo.14099 of 2003 and batch.

However, as the petitioners have not approached the Court with clean hands, we saddle them with cost of Rs.5,000/- each. The amount of cost shall be paid by the petitioners to respondent No.1 within a period of one month from today, failing which the said respondent shall be free to file miscellaneous petition for issue of further direction necessary for recovery of the costs.

G.S. SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

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21.09.2006